

08/780507

PATENT APPLICATION TRANSMITTAL LETTER
(Large Entity)

Docket No.
9427C

TO THE ASSISTANT COMMISSIONER FOR PATENTS

Transmitted herewith for filing under 35 U.S.C. 111 and 37 C.F.R. 1.53 is the patent application of:

MARIJA ELLUL AND DONALD R. HAZELTON

For: TRANSLUCENT THERMOPLASTIC ELASTOMERS

Enclosed are:

- Certificate of Mailing with Express Mail Mailing Label No. EH846734248US
- sheets of drawings.
- A certified copy of a application.
- Declaration Signed. Unsigned.
- Power of Attorney
- Information Disclosure Statement
- Preliminary Amendment
- Other: POST CARD; PET. FOR EXT. TIME IN PARENT APPL; REQ FOR INTERFERENCE

CLAIMS AS FILED

For	#Filed	#Allowed	#Extra	Rate	Fee
Total Claims	10	- 20 =	0	x \$22.00	\$0.00
Indep. Claims	2	- 3 =	0	x \$80.00	\$0.00
Multiple Dependent Claims (check if applicable)					\$0.00
				BASIC FEE	\$770.00
				TOTAL FILING FEE	\$770.00

- A check in the amount of to cover the filing fee is enclosed.
- The Commissioner is hereby authorized to charge and credit Deposit Account No. 01-0275 as described below. A duplicate copy of this sheet is enclosed.
 - Charge the amount of \$770.00 as filing fee.
 - Credit any overpayment.
 - Charge any additional filing fees required under 37 C.F.R. 1.16 and 1.17.
 - Charge the issue fee set in 37 C.F.R. 1.18 at the mailing of the Notice of Allowance, pursuant to 37 C.F.R. 1.311(b).

Dated: JANUARY 8, 1997


Signature

WILLIAM A. SKINNER
REG. NO. 25,412

cc:

CERTIFICATE OF MAILING BY "EXPRESS MAIL" (37 CFR 1.10)

Applicant(s): MARIA D. ELLUL AND DONALD R. HAZELTON

Docket No.

9427C

Serial No.

Filing Date

JANUARY 8, 1997

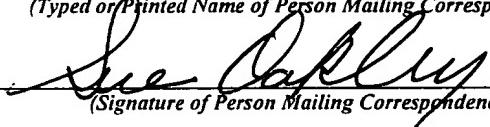
Examiner

Group Art Unit

Invention: TRANSLUCENT THERMOPLASTIC ELASTOMERS

I hereby certify that this PAT. APPL; PET EXT TIME IN PAT APPL; REQ FOR INTER; DEC/PA:TRANS LTR
(Identify type of correspondence)

is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under
37 CFR 1.10 in an envelope addressed to: The Assistant Commissioner for Patents, Washington, D.C. 20231 on
JANUARY 8, 1997

(Date)**SUE OAKLEY***(Typed or Printed Name of Person Mailing Correspondence)*
*(Signature of Person Mailing Correspondence)***EH846734248US***("Express Mail" Mailing Label Number)***Note: Each paper must have its own certificate of mailing.**

COPY

Docket No.

9427B

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)
(Large Entity)

In Re Application Of: M. D. ELLUL, ET AL

Serial No.

08/619,135

Filing Date

MARCH 20, 1996

Examiner

W. ROBINSON H. CLARK

Group Art Unit

1501

Invention: TRANSLUCENT THERMOPLASTIC ELASTOMERS

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a response to the Office Action of July 11, 1996 in the above-identified application.
Date

The requested extension is as follows (check time period desired):

One month

Two months

Three months

Four months

from: _____

OCTOBER 11, 1996

Date

until: _____

JANUARY 11, 1997

Date

The fee for the extension of time is \$930 and is to be paid as follows:

- A check in the amount of the fee is enclosed.
- The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 01-0275
A duplicate copy of this sheet is enclosed.
- If an additional extension of time is required, please consider this a petition therefor and charge any additional fees which may be required to Deposit Account No. 01-0275
A duplicate copy of this sheet is enclosed.

William A. Skinner

Signature

Dated: JANUARY 7, 1997

WILLIAM A. SKINNER
REG. NO. 25,412

I certify that this document and fee is being deposited on Jan 7, 1997 with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Sue Oakley

Signature of Person Mailing Correspondence

SUE OAKLEY

Typed or Printed Name of Person Mailing Correspondence

CC:

CERTIFICATE OF MAILING BY "EXPRESS MAIL" (37 CFR 1.10)

Applicant(s): MARIA D. ELLUL AND DONALD R. HAZELTON

Docket No.

9427C

Serial No.

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Group Art Unit



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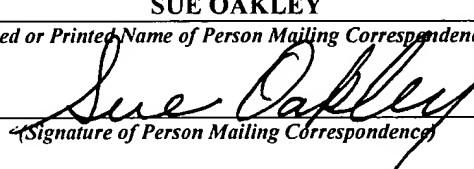
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(Date)**SUE OAKLEY***(Typed or Printed Name of Person Mailing Correspondence)*A handwritten signature of Sue Oakley.*(Signature of Person Mailing Correspondence)***EH846734248US***("Express Mail" Mailing Label Number)***Note: Each paper must have its own certificate of mailing.**

08/780507



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Maria D. Ellul et al.

Continuation-in-Part of Appln. No. 08/619,135

Parent Filed: March 20, 1996

For: TRANSLUCENT THERMOPLASTIC ELASTOMERS

REQUEST FOR INTERFERENCE

Assistant Commissioner of Patents
Washington, D.C. 20231

Sir:

Ellul et al. hereby submit this paper under 37 CFR 1.607 requesting an interference with U.S. Patent 5,525,675, granted June 11, 1996, and filed March 23, 1994.

A proposed count for the interference is as follows: *Sec Cvr 0, Cm m*

COUNT:

A thermoplastic elastomer comprising (A) 10-90 wt. % of propylene homopolymer having a syndiotactic pentad fraction of at least 0.7 and/or propylene copolymer with olefin having a syndiotactic pentad fraction of at least 0.5 and (B) 90-10 wt. % of an ethylene-propylene-nonconjugated diene copolymer rubber and/or an ethylene-propylene copolymer rubber, said component (B) having been partially crosslinked

OR

REQUEST FOR INTERFERENCE
Continuation-in-part of U.S. Appln. No. 08/619,135

A composition for preparing a thermoplastic elastomer, which comprises (A) 10-90 Wt. % of propylene homopolymer having a syndiotactic pentad fraction of at least 0.7, and/or propylene copolymer with olefin having a syndiotactic pentad fraction of at least 0.5 and (B) 90-10 wt. % of an ethylene-propylene conjugated diene copolymer rubber and/or an ethylene-propylene copolymer rubber, and an organic peroxide

OR

The process for the preparation of a thermoplastic elastomer, which comprises crosslinking the above thermoplastic elastomer composition while melting and kneading the same

OR

A formed article made of the above thermoplastic elastomer.

All claims of U.S. 5,525,675 correspond to the proposed count.

All claims as originally presented in the application of Ellul et al. correspond to the proposed count.

REQUEST FOR INTERFERENCE
Continuation-in-part of U.S. Appln. No. 08/619,135

Since each of the claims of the '675 patent end of the Ellul et al. application submitted herewith does not correspond exactly to the proposed count, requestor explains below why each such claim does correspond to the proposed count.

First, requestor considers the claims of the '675 patent.

The proposed count is a composite, set forth in the alternative, of claims 1, 2 and 9 of the '675 patent, plus a formed article part which is generic to the automotive bumper fascia, automotive mud guard and automotive trim skin material claims 6-8 of the '675 patent.

The '675 patent contains 9 claims, claims 1, 2 and 6-9 having been discussed above. Remaining claims 3-5 depend upon claim 2 (second part of the proposed count) and describe in greater detail the amount of organic peroxide present, the name of a specific organic peroxide that can be used and the further inclusion of a crosslinking aid. Since none of the features of claims 3-5 add an element of patentable distinctness as compared to claim 2, claims 3-5 also correspond to the proposed count, which as noted above, includes a second part thereof which is identical to claim 2 of the '675 patent.

Requestor now turns to discussion of claims 1-10 presented in the Ellul et al. application. First of all, since Ellul et al. does not disclose that a syndiotactic propylene copolymer can be employed, all of Ellul et al.'s claims describe the syndiotactic propylene as a homopolymer. Since the possibility that the syndiotactic polypropylene can be a homopolymer or copolymer is set forth in the alternative in the claims of the '675 patent, the

REQUEST FOR INTERFERENCE
Continuation-in-part of U.S. Appln. No. 08/619,135

limitation of the claims of Ellul et al. to syndiotactic homopolymers does not effect the correspondence of Ellul et al.'s claims to the proposed count.

Claim 1 of Ellul et al. corresponds to claim 1 of the '675 patent (first part of the proposed count) except as noted above with respect to homopolymer, plus describing the propylene homopolymer as principally containing propylene units of exactly alternating configuration and having a syndiotactic pentad fraction of at least 0.86, as compared to claim 1 of the '675 patent in which the propylene homopolymer is stated to have a syndiotactic pentad fraction of at least 0.7.

By definition, a syndiotactic propylene homopolymer does principally contain propylene units of exactly alternating configuration. This means that minor amounts of isotactic or atactic derived dyads may be present. Further, "at least 0.7" reads on "at least 0.86". Indeed, in examples 1-3 of the '675 patent, the syndiotactic pentad fraction of the propylene homopolymer is 0.91.

Claim 2 of the Ellul et al. application corresponds to claim 2 of the '675 patent, except for the differences noted above between claim 1 of the Ellul et al. application and claim 1 of the '675 patent. Since the second part of the proposed count is identical to claim 2 of the '675 patent, and the differences are as discussed above, claim 2 of the Ellul et al. application and claim 2 of the '675 patent are directed to the same inventive concept, as set forth in the proposed count.

REQUEST FOR INTERFERENCE

Continuation-in-part of U.S. Appln. No. 08/619,135

Claim 3 of the Ellul et al. application corresponds to claim 3 of the '675 patent.

Claim 3 of the Ellul et al. patent sets forth amount of organic peroxide as used in examples of the Ellul et al. application, which amount is within the peroxide range set forth in claim 3 of the '675 patent. Accordingly, claim 3 of the '675 patent could be considered as generic to claim 3 of the Ellul et al. application, both being directed to the same invention as defined by the second part of the proposed count.

Claim 4 of the Ellul et al. application corresponds to claim 5 of the '675 patent. The tri-allyl cyanurate of the examples of the Ellul et al. application is described as a crosslinking coagent by Ellul et al., and as a crosslinking aid by the '675 patentee. Thus, different language is being used for the same functional material. Accordingly, claim 4 of Ellul et al. corresponds to the same patentable invention as claim 5 of the '675 patent, both of which are part of the same inventive concept as set forth in the second part of the proposed count.

Claim 5 of Ellul et al. corresponds to claim 9 of the '675 patent. These claims correspond to the third part of the proposed count. The only difference between Ellul et al. claim 5 and claim 9 of the '675 patent is that Ellul et al. state that "melting and masticating" are carried out for preparing a thermoplastic elastomer while 9 of the '675 patent states that "melting and kneading" are carried out. Since "masticating" and "kneading" describe essentially the same physical manipulation of the composition, said claims correspond to one another and therefore both correspond to the third part of the proposed count.

REQUEST FOR INTERFERENCE
Continuation-in-part of U.S. Appln. No. 08/619,135

Claims 6 and 7 of Ellul et al. correspond to claim 1 of the '675 patent and thus to the first part of the proposed count. Claims 6 and 7 of Ellul et al. set forth specific pentad fractions within the "at least 0.7" language of claim 1 of the '675 patent and within the same language of the first part of the proposed count. Accordingly, claims 6 and 7 of Ellul et al. correspond to the proposed count.

Claims 8 and 9 of Ellul et al. correspond to claim 2 of the '675 patent, except for setting forth specific syndiotactic pentad fractions as noted above with respect to claims 6 and 7 of Ellul et al. Accordingly, claims 8 and 9 correspond to the second part of the proposed count.

Ellul et al.'s last claim is claim 10, which is a generic molded or extruded article claim, and thus is generic to and corresponds to claims 6-8 of the '675 patent, while also corresponding to the last part of the proposed count, directed to a formed article.

Sections (a)(5) and (6) of 37 CFR 1.607 do not apply to the present situation.

With respect to 37 CFR 1.607(c), requestor has discussed above the fact of substantial correspondence of requestor's claims 1-10 to claims 1-9 of the '675 patent and has identified the number of each patent claim which substantially corresponds to each of requestor's claims.

Requestor's effective filing date for each of the claims presented at this time by requestor is March 4, 1994, thereby antedating the U.S. filing date of March 23, 1994, of the '675 patent. Accordingly, a showing under 37 CFR 1.608 is not required.

REQUEST FOR INTERFERENCE
Continuation-in-part of U.S. Appln. No. 08/619,135

It is believed the only issue regarding support that could possibly be raised by the PTO is with respect to the recitation in requestor's claims presented in requestor's application regarding that the propylene homopolymer principally contains propylene units of exactly alternating configuration and has a syndiotactic pentad fraction of at least 0.86.

In the paragraph bridging pages 3 and 4 of requestor's specification, the syndiotactic polypropylene is described with respect to certain characteristics thereof, including that of principally containing units of exactly alternating configuration (second sentence of said paragraph). The syndiotactic pentad fractions of the three polypropylenes used in requestor's examples, as set forth in Table V, are 0.86, and 0.87 (the latter for two different homopolymers). Therefore, a syndiotactic pentad fraction range disclosed by requestor in requestor's application is at least 0.86, since small amounts of isotactic or atactic polypropylene can be present. Further, requestor's claims 6-9 are fully supported, as being based on examples of requestor's application, wherein the homopolymers used contain syndiotactic pentad fractions of 0.86 and 0.87.

REQUEST FOR INTERFERENCE
Continuation-in-part of U.S. Appln. No. 08/619,135

Although requestor submits that each of requestor's claims 1-10 is supported by requestor's first filed application 08/206,984 filed March 4, 1994, to expedite Declaration of Interference the Examiner need only determine that requestor's claims 6-9 are entitled to benefit of the filing date of March 4, 1994, and on that basis alone can proceed with Declaration of Interference.

Prompt declaration of interference is respectfully requested.

Respectfully submitted,



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January 8, 1996

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Applicant(s): MARIA D. ELLUL AND DONALD R. HAZELTON

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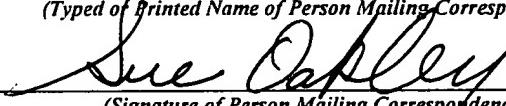
Examiner

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